

Jun 30, 2021

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAMES PATRICK WERTMAN,

Defendant.

NO: 2:21-CR-6024-RMP-1

STIPULATED PROTECTIVE
ORDER REGARDING COMPUTER
FORENSIC REVIEW PROCEDURES
FOR CHILD PORNOGRAPHY
CONTRABAND

BEFORE THE COURT is a Stipulated Motion for Entry of a Protective
Order Regarding Computer Forensic Review Procedures For Child Pornography
Contraband filed by the parties in the above-captioned matter. ECF No. 19.

Having reviewed the motion, the remaining docket, and the relevant law, the
Court finds good cause to enter the stipulated protective order. Accordingly, IT IS
HEREBY ORDERED that the parties' Stipulated Motion for Entry of a Protective
Order Regarding Computer Forensic Review Procedures For Child Pornography
Contraband, **ECF No. 19**, is **GRANTED**. The following Protective Order
Regarding Computer Forensic Review Procedures For Child Pornography

STIPULATED PROTECTIVE ORDER REGARDING COMPUTER FORENSIC
REVIEW PROCEDURES FOR CHILD PORNOGRAPHY CONTRABAND ~ 1

1 Contraband is in effect:

2 **PROTECTIVE ORDER**

3 1. 18 U.S.C. § 3509(m) applies to this case, and the Court is required to
4 deny defense requests to copy, photograph, duplicate, or otherwise reproduce
5 material constituting child pornography if the government makes the material
6 reasonably available to Defendant and provides an ample opportunity for the
7 defense to examine it at a government facility. *See* 18 U.S.C. § 3509(m).

8 2. To comply with 18 U.S.C. § 3509(m), and to allow Defendant the
9 greatest opportunity to prepare an effective defense in preparation for trial in this
10 matter, the government will make a true forensic, bit-by-bit E01 image of devices
11 and media containing alleged child pornography contraband at issue in the above-
12 referenced case. The government will make that forensic image reasonably
13 available to Defendant and provide ample opportunity for the defense team to
14 examine it at a government facility in Spokane, Washington. The parties may
15 readdress the Court if there is a need for additional or after-hours access during the
16 course of litigation or additional forensic review.

17 3. The defense forensic examination will be conducted in an interview
18 room monitored by closed-circuit television (“CC-TV”), without audio feed.
19 While the TV with non-audio feed will ensure the integrity of FBI space and
20 security of its occupants, the video feed is not of sufficient detail or at an angle that
21 would reveal defense strategy. The government and its agents expressly agree that

1 no attempt will be made to record any audio from the workstation and that no
2 attempt will be made to observe the defense team's work product or computer
3 monitor screen at any time. The defense expert may review the feed to ensure that
4 defense strategy is not being compromised at any time while conducting the
5 forensic review.

6 4. The defense team¹ shall not make, nor permit to be made, any copies
7 of the alleged child pornography contraband pursuant to this Protective Order and
8 shall not remove any contraband images from the government facility. The defense
9 expert will be allowed to copy any file that is not contraband and compile a report
10 (without contraband images/videos) documenting the examination on removable
11 media at the discretion of the defense expert.

12 5. The defense expert and investigator will leave at the government
13 facility any equipment, including hard drives, which contain child pornography
14 contraband that is identified during forensic evaluation.

15 6. For the purpose of trial, the government agrees to make available a
16 digital copy of any government trial exhibit that contains contraband, which will be
17 kept in the custody and control of the case agent. Upon reasonable notice by the
18 defense, the case agent will also maintain for trial digital copies of any proposed

19 ¹ For purposes of this Protective Order, the term "defense team" refers solely to
20 Defendant's counsel of record ("defense counsel"), Defendant's designated expert
21 ("defense expert"), and a defense investigator.

1 defense exhibit that contains contraband. If the defense team intends to offer,
2 publish, or otherwise utilize any government or defense exhibit contained on the
3 digital copy maintained by the case agent during trial, the case agent shall assist the
4 defense team in publishing or utilizing the exhibit that contains contraband upon
5 notification by the defense team.

6 **IT IS SO ORDERED.** The District Court Clerk is directed to enter this Order
7 and provide copies to counsel.

8 **DATED** June 30, 2021.

9 *s/ Rosanna Malouf Peterson*
10 ROSANNA MALOUF PETERSON
11 United States District Judge
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